

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Marc Nall,

Case No. 20-cv-2459 (PAM/JFD)

Plaintiff,

v.

ORDER

JPMorgan Chase Bank, N.A.,

Defendant.

This matter is before the Court on Plaintiff Marc Nall's Motion to Compel Defendant JPMorgan Chase Bank, N.A. to Produce Documents and Information (Dkt. No. 25). The motion is granted in part and denied in part, as set forth below.

Plaintiff holds a credit card with Defendant. He used the credit card to pay \$1,690.79 in airfare for a trip, which he later canceled due to the COVID-19 pandemic. The airline refunded the full amount, but Defendant allegedly placed a credit on the account for approximately the same amount. Plaintiff is suing Defendant for (1) a violation of the Fair Credit Billing Act (FCBA), 15 U.S.C. § 1666, and related Regulation Z, 12 C.F.R. § 226.13; (2) conversion; (3) unjust enrichment; and (4) violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*

Plaintiff moves to compel Defendant to produce information and documents responsive to Interrogatories Nos. 2, 3, 4, 5, and 6 and Requests for Production of Documents Nos. 1, 2, 3, and 7. Plaintiff also asks the Court to compel Defendant to produce a privilege log and for an award of expenses incurred in bringing the motion to compel.

Defendant opposed the motion in a written response.

During the hearing on the motion, the parties commendably resolved nearly all of the discovery disputes presented in the motion. This Order serves primarily to memorialize their agreements and understandings.

Defendant agreed to produce its policies and procedures related to the FCBA—specifically, merchant disputes, customer billing disputes, and the FCRA investigation—which Plaintiff believed would resolve the dispute over Interrogatory Nos. 3 and 6. Defendant’s counsel represented it would take a week or so to compile and produce the policies and procedures. If, after review of the production Plaintiff’s counsel finds it insufficient, he may re-raise the dispute with the Court.

Defendant expressed concern about the confidential nature of the policies and procedures but represented the parties could finalize and provide a stipulated protective order for the Court’s review and approval by the end of the business day on September 1, 2021. The Court committed to issuing the protective order within 24 hours of its receipt. The Court also reminded Defendant that the pretrial scheduling order provides that the absence of a protective order cannot be a basis for withholding discovery. (*See* Dkt. No. 12 at 9.)

Defendant agreed to supplement its production of call notes and account notes. Defendant also agreed to supplement its responses to indicate that nothing has been withheld on the basis of privilege or work product protection for any documents or information that predate this lawsuit. Based on Defendant’s counsel’s representations at the hearing, Defendant need not produce a privilege log at this time. Finally, Defendant

will supplement its response to Document Request No. 7 to produce all documents on which Defendant will rely to establish its affirmative defenses, to the extent it has not already produced such documents. Defendant will provide an update on supplementation to the Court and Plaintiff at the status conference on September 7, 2021, though the Court expressed its hope that production will have been completed by then.

Plaintiff's request for attorney's fees and costs is denied. Counsel for both parties were professional and collaborative at the motions hearing.

Accordingly, based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that Plaintiff Marc Nall's Motion to Compel Defendant JPMorgan Chase Bank, N.A. to Produce Documents and Information (Dkt. No. 25) is **GRANTED IN PART** and **DENIED IN PART** as set forth above.

Dated: August 31, 2021

s/ John F. Docherty
JOHN F. DOCHERTY
United States Magistrate Judge